

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and following remarks is respectfully requested.

Claims 1-40 are pending. Claim 17 has been amended to correct a minor typographical error.

The objection to claim 17 is believed overcome in view of the foregoing amendment.

Claim 25 recites patentable subject matter

The rejection of claim 25 under 35 USC 101 as being directed to non-statutory subject matter is hereby traversed. The Patent and Trademark Office (PTO) asserts without support that the claim lacks the proper preamble necessary for a statutory computer program product claim. The PTO has failed to set forth a prima facie case of unpatentability with respect to the language of claim 25 and instead appears to rely on conclusory statements regarding said unpatentability.

Each of the features of claim 25 recite an “instruction sequence that, when executed by a processor, minimally causes the processor to.” Per MPEP §2106.01 (I.), “[w]hen a computer program is recited in conjunction with a physical structure, such as a computer memory, USPTO personnel should treat the claim as a product claim.” The present claim language recites a computer program, i.e., instruction sequences, in conjunction with a physical structure, i.e., a computer readable medium. As such, the claim as a whole is believed to recite patentable subject matter notwithstanding the PTO’s unfounded assertions regarding the preamble language. Although the format of the claim language differs from the suggested language of the PTO, the content and meaning of the claim language appears to be substantially similar such that statutory subject matter is believed to have been recited.

Further, the PTO has failed to clearly set forth specifically how the claim language is deficient. Per MPEP §2106 IV D., the PTO bears the initial burden of presenting a prima facie case of unpatentability and must identify and explain in the record the reasons why a claim is for an abstract idea with no practical application.

Further still, the PTO has failed to set forth whether a determination has been made as to whether the claimed invention falls within an enumerated statutory category or whether a determination has been made as to whether the claimed invention falls within §101 judicial exceptions - laws of nature, natural phenomena and abstract ideas. Because the PTO has failed to set forth any specific deficiency with respect to the claim language, withdrawal of the rejection is believed to be in order.

For at least the foregoing reasons, withdrawal of the rejection is respectfully requested.

Claims 1, 9, 17, 25, and 33 are not anticipated by Yokote (US Patent Application Publication 2002/0157024)

The rejection of claims 1, 9, 17, 25, and 33 under 35 USC 102(b) as being anticipated by Yokote is hereby traversed. A rejection based on 35 U.S.C. §102 requires every element of the claim to be included in the reference, either directly or inherently. Claim 1 is patentable over Yokote because the reference fails to disclose or suggest every element of claim 1.

Claim 1

Yokote fails to disclose or suggest “registering the mobile node with the home agent using the security tunnel” as claimed in claim 1.

The PTO asserts that Yokote describes registering the mobile node with the home agent using the security tunnel at paragraph 13. This is incorrect. Yokote describes the mobile node as registering with the home agent prior to the tunnel being established. Yokote at paragraph 13. The PTO-identified portion of Yokote, reproduced herein for ease of reference and convenience, states as follows:

IPsec is applicable in both Mobile IPv4 and Mobile IPv6 environments. For instance, during a registration process in Mobile IPv4 in which a mobile node situated away from home is registering its care-of address with its home agent, the home agent and the mobile node negotiate for a mutually agreeable SA and establish an encryption key that is to be used to protect subsequent communications being tunneled between them. Similarly, the above IPsec is implemented in the Route Optimization operations according to Mobile IPv6. A mobile node situated away from home sends a binding update to a correspondent node to notify the mobile node's current point of attachment to the Internet. The mobile and correspondent nodes then negotiate for a mutually agreeable SA and

determine a cryptographic key that is to be used to protect subsequent communications routed directly between them. Ipsec provides for the creation of more than one SA having different security policies, between two nodes. The SA's are uniquely identified by a Security Parameter Index (SPI), which for example may be a 32 bit integer.

Yokote at paragraph 13 (emphasis added)

The PTO-identified portion of Yokote appears to describe registration occurring prior to establishment of the security tunnel which is contrary to the feature claimed in claim 1. For at least this reason, withdrawal of the rejection is respectfully requested.

Based on at least the foregoing reasons, claim 1 is patentable over Yokote and withdrawal of the rejection is respectfully requested.

Claims 9, 17, 25, and 33 are patentable over Yokote for at least reasons similar to those advanced above with respect to claim 1 and withdrawal of the rejection is respectfully requested.

Claims 1, 3-7, 9, 11-15, 17, 19-23, 25, 27-31, 33, and 35-39 are not anticipated by Thubert et al. (US Patent Application Publication 2004/0202183)

The rejection of claims 1, 3-7, 9, 11-15, 17, 19-23, 25, 27-31, 33, and 35-39 under 35 USC 102(c) as being anticipated by Thubert is hereby traversed. A rejection based on 35 U.S.C. §102 requires every element of the claim to be included in the reference, either directly or inherently. Claim 1 is patentable over Thubert because the reference fails to disclose or suggest every element of claim 1.

Claim 1

Thubert fails to disclose or suggest “establishing between the mobile node and the determined home agent a security tunnel” as claimed in claim 1.

The PTO asserts that Thubert describes establishing a security tunnel as claimed at the Abstract and paragraphs 6, 15, 39, and 48. This is incorrect. Each of the PTO-identified portions of Thubert appear to describe establishing a tunnel between a mobile router and a correspondent node and not establishing a security tunnel between a mobile node and a home agent. The Title of Thubert is “Arrangement for Establishing a Bidirectional Tunnel Between a Mobile Router and a Correspondent Node.” (Emphasis added) There does not appear to be a disclosure of establishing a security tunnel between a mobile node and a home agent, nor does there appear to be a disclosure of registering the mobile node with the home agent using the security tunnel as claimed in claim 1. For at least this reason, withdrawal of the rejection is respectfully requested.

Based on at least the foregoing reasons, claim 1 is patentable over Thubert and withdrawal of the rejection is respectfully requested.

Claims 3-7 depend, either directly or indirectly, from claim 1, include further limitations, and are patentable over *Thubert* for at least the reasons advanced above with respect to claim 1. The rejection of claims 3-7 should be withdrawn.

Claims 9, 17, 25, and 33 are patentable over Thubert for at least reasons similar to those advanced above with respect to claim 1 and withdrawal of the rejection is respectfully requested.

Claims 11-15, 19-23, 27-31, and 35-39 depend, either directly or indirectly, from claims 9, 17, 25, and 33, include further features, and are patentable over *Thubert* for at least reasons similar to the reasons advanced above with respect to claim 1. The rejection of claims 11-15, 19-23, 27-31, and 35-39 should be withdrawn.

Claims 1, 2, 8-10, 16-18, 24-26, 32-34, and 40 are not anticipated by Johansson et al. (US Patent Application Publication 2002/0080752)

The rejection of claims 1, 2, 8-10, 16-18, 24-26, 32-34, and 40 under 35 USC 102(b) as being anticipated by Johansson is hereby traversed. A rejection based on 35 U.S.C. §102 requires every element of the claim to be included in the reference, either directly or inherently. Claim 1 is patentable over Johansson because the reference fails to disclose or suggest every element of claim 1.

Claim 1

Johansson fails to disclose or suggest “registering the mobile node with the home agent using the security tunnel” as claimed in claim 1.

The PTO asserts that Johansson describes registering the mobile node with the home agent using the security tunnel at paragraphs 114, 126, and 138. This is incorrect. Johansson appears to describe the mobile node as registering with the home agent prior to the tunnel being established. Johansson at paragraph 114 (“sends a mobile IP 27 registration message to the selected network interface card 88” followed by “instructs the IPSec filter 84a via the security association database 84d to utilize security associations”).

Further, Johansson appears to describe modification of mobile IP tunnel 30a after receipt of registration request 93, which does not appear to have traversed the tunnel. Johansson at paragraph 126 (“The mobile IP tunnel 30a is then modified to contain a UDP header 30c as well.”). Paragraph 138 of Johansson appears to describe the transmission of “registration request 93 towards the home agent 1” without disclosing that transmission of the registration occurs using the security tunnel. Further still, paragraphs 139-141 of Johansson appear to describe the communication of registration information between a mobile node and its home agent without the use of a security tunnel. For at least this reason, withdrawal of the rejection is respectfully requested.

The PTO-identified portion of Johansson appears to describe registration occurring prior to establishment of the security tunnel which is contrary to the feature claimed in claim 1. For at least this reason, withdrawal of the rejection is respectfully requested.

Based on at least the foregoing reasons, claim 1 is patentable over Johansson and withdrawal of the rejection is respectfully requested.

Claim 2 depends, either directly or indirectly, from claim 1, include further limitations, and are patentable over *Johansson* for at least the reasons advanced above with respect to claim 1. The rejection of claim 2 should be withdrawn.

Claims 9, 17, 25, and 33 are patentable over Johansson for at least reasons similar to those advanced above with respect to claim 1 and withdrawal of the rejection is respectfully requested.

Claims 8, 10, 16, 18, 24, 26, 32, 34, and 40 depend, either directly or indirectly, from claims 9, 17, 25, and 33, include further features, and are patentable over *Johansson* for at least reasons similar to the reasons advanced above with respect to claim 1. The rejection of claims 8, 10, 16, 18, 24, 26, 32, 34, and 40 should be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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